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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/308,461	05/18/1999	DOROTHEA LAMPE	P99.0946	6212

7590 03/15/2004

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EXAMINER
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DO, NHAT Q

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/308,461

Applicant(s)

LAMPE ET AL.

Examiner

Nhat Do

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 12/31/03 have been fully considered but they are not persuasive.

Applicants argue that classes S, and P are defined on page 4, and the defined classes have nothing to do with the service classes according to Yin et al (Remark page 2, 3<sup>rd</sup> paragraph).

In reply, the specification discloses that there are generally two types connections in ATM: CBR and VBR (Specification page 1, lines 7-25), and sigma rule algorithm is a known method in splitting connections into the two mentioned connection types (Specification pages 3-4). In reading the specification, a skilled artisan would have interpreted the S, and P connection types are the VBR and CBR connection types respectively, which are the service classes of Yin et al.

Applicants also argue that neither the subdivision into additional sub-classes nor the step-by-step application of the same algorithm is addressed by Yin et al and Worster (Remarks page 3, 1<sup>st</sup> paragraph).

In reply, claim 8 recites assigning incoming connection to a first and second class, wherein the first class is further sub-divided into subclasses.

In combining Yin et al and Worster, the examiner is in the position sub-dividing the VBR type connection (first class connection) into sub-classes (Fig. 9; col. 4, lines 20-26) disclosed by Worster is sub-dividing the first class into sub-classes, and dividing

incoming connection to VBR and CBR types (Fig. 2) disclosed by Yin et al is assigning incoming connection to the first (VBR) and second (CBR) classes.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,028,840 to Worster in view of U.S. Patent No. 5,982,748 to Yin et al.

Regarding to claim 8, Worster disclose a device in figure 8 performing:

Providing ATM virtual connections (Col. 11, line 65-col. 12, line 20);

Assigning incoming connections to variable bit rate (VBR) connections (a first class connections) depending on QoS parameters (result of predetermined analysis) (Col. 12, lines 120). The VBR connections are subdivided into connection classes (sub-classes). Analysis is performed in sequence on each connection class until the incoming connection is assigned to a connection (Fig. 9).

Worster fails to disclose assigning the incoming connection to a first or a second class depending on the result of predetermined analysis. Yin et al disclose assigning the incoming connection to a VBR (first) or a CBR (second) connection depending on the connection request (result of predetermined analysis) (Figure 2). A skilled artisan would have been motivated to modify the device of Worster so that it assigns the incoming connection to a CBR or VBR connection in order to provide either CBR or VBR

connection depending on the requirement of a particular data flow as taught by Yin et al (Col. 1, lines 39-55). Therefore it would have been obvious to a person having ordinary skill in the art by the time the invention was made to assign the incoming connection to a first or a second class depending on the result of predetermined analysis.

Regarding to claim 9, the parameters es, and C are parameters of connection line.

Regarding to claim 10, Worster discloses the parameters es are updated (Col. 11, lines 20-25).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhat Do whose telephone number is (703) 305-5743. The examiner can normally be reached on 9:00 AM - 6:00 PM (Monday-Friday).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nhat Do  
Examiner  
Art Unit 2663

ND

March 8, 2004.

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600 3/12/04